

## **REMARKS**

### **1. Summary of Interview**

A telephonic interview was held between the Examiner and the attorney for the Applicant on November 19, 2004. Claim 1 was discussed as a representative claim. The prior art that was discussed was U.S. 5,102,057 to Ellis. Agreement was reached in that amendments to the claims including further functional language would be submitted with the response to the August 2, 2004 Office Action in order to attempt to overcome the Ellis reference. No other matters were discussed.

### **2. Response to Office Action**

First, Applicants would like to thank the Examiner for the courtesy extended by discussing by telephone the rejection issued and the references cited in the August 2, 2004 Office Action. As set forth below, Applicants now maintain that the claims are allowable in their present form.

In the Office Action, the Examiner rejected claims 1-5, 7-12, and 14-20 as unpatentable under § 103(a) over Bleasdale (U.S. 3,882,770) in view of Ellis (U.S. 5,102,057). Applicants respectfully traverse this rejection and assert that the claims as amended are now allowable for the reasons set forth below.

Prior to entry of this amendment, claims 1-5, 7-12, and 14-20 are pending. Claims 1, 12 and 17 are independent claims upon which the allowability of the other claims depends. Claim 1 has been amended so that the cutting device is deactivated when shredded material is present within the receptacle and interrupts the beam for a period longer than the predetermined period of time and will not operate to shred material until the shredded material is no longer present in the path of the beam. Ellis does not disclose such an operation. Instead, Ellis discloses an electric eye that acts as a time control device and keeps the machine running until the outlet orifice 10 is clear so that "the machine 2 will only run as long as plastic 50 is present within the chamber 40" (col. 4, lines 37-42). Thus, the electric eye, or timing device, of Ellis operates so that the machine will continue to run so long as plastic is present within the chamber, i.e. the machine will shut off once the outlet orifice is clear and there is no plastic present. The timer of the present invention acts in an opposite manner, i.e., the cutting device shuts off upon the presence of shredded material in the path of the beam (for longer than the predetermined period of time) and will not run again until there is an absence of shredded material in the path of the

beam. In other words, the present cutting device is deactivated until the presence of shredded material that interrupts the beam is cleared. Thus, Ellis actually teaches away from the operation of Applicants' timer as presently claimed.

Claim 12 has similarly been amended so that the comminuting device is deactivated when the shredded material is present and interrupts the infrared detection beam for a period longer than the predetermined period of time and is then activated with the absence of shredded material in the path of the infrared detection beam. This also is different from Ellis, which, as explained above, teaches that the time control device deactivates the machine upon *the absence* (rather than presence) of plastic within the chamber (col. 4, lines 37-42). In claim 12, the comminuting device is again activated with the absence of shredded material.

Claim 17 has been amended so that the comminuting device is rendered inoperable when the beam is interrupted by the presence of comminuted material for a period of time greater than a predetermined period of time and is then rendered operable with the absence of comminuted material in the path of the beam. As explained above, Ellis in contrast teaches the time control device causes the machine to shut down upon the absence (rather than presence) of plastic within the machine.

The other timing operations disclosed in Ellis also fail to disclose the operation of the timer as claimed. Ellis discloses that the electric eye will prevent operation of the machine if plastic is stored too high in the bin when the machine is started (col. 4, lines 33-36). However, this does not describe any type of timing function. Ellis also discloses a timer 27 that shuts off the drive means after a predetermined period of time (col. 4, lines 42-48). However, the timer 27 in Ellis is dependent upon the state of the electric eye. If the electric eye does not indicate the outlet orifice is clear, which would normally cause the drive means to shut down as described above, the timer will cause the drive means to stop after a predetermined period of time. The timer 27 of Ellis does not operate as currently claimed by applicants, but instead depends upon the state of the electric eye which, as explained above, is different from Applicants' timer.

Applicants therefore respectfully assert that the combination of Bleasdale over Ellis does not render unpatentable the claims as amended and requests that the rejection be withdrawn.

## CONCLUSION

In conclusion, Applicants respectfully submit that pending claims 1-5, 7-12 and 14-20 are allowable in their present form, and hereby request allowance of claims 1-5, 7-12 and 14-20. If any questions arise or issues remain, the Examiner is invited to contact the undersigned at the number listed below in order to expedite disposition of this application.

Respectfully submitted,

A handwritten signature in cursive script, reading "Anastasia Heffner".

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